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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND DIVISION**

11 IN RE: LITHIUM ION BATTERIES
12 ANTITRUST LITIGATION

13 This Document Relates to:
14 INDIRECT PURCHASER ACTIONS

Case No. 13-MD-02420 YGR (DMR)

MDL NO. 2420

15 **[PROPOSED] ORDER GRANTING**
16 **SETTLEMENT CLASS**
17 **CERTIFICATION AND PRELIMINARY**
18 **APPROVAL OF CLASS ACTION**
19 **SETTLEMENT WITH SONY**
20 **DEFENDANTS**

21 ***AS MODIFIED BY THE COURT***
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2 On April 8, 2016, Indirect Purchaser Plaintiffs (“IPPs”) filed a Motion for Preliminary
3 Approval of Class Action Settlement with Defendants Sony Corporation, Sony Energy Devices
4 Corporation, and Sony Electronics Inc. (collectively “Sony”). (Dkt. No. 1209). The Court,
5 having reviewed the motion, the settlement agreement (Declaration of Steven N. Williams,
6 Dkt. No. 1209-1, Exh. 1), the pleadings and other papers on file in this action, and the
7 statements of counsel and the parties, hereby finds that the motion should be **GRANTED**.
8

9 NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- 10 1. For purposes of this Order, except as otherwise set forth herein, the Court adopts
11 and incorporates the definitions contained in the settlement agreement, to the extent
12 not contradictory or mutually exclusive.
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14 2. The Court hereby preliminarily approves the settlement agreement.
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16 3. The Court finds that the settlement falls within the range of possible final approval
17 and that there is a sufficient basis for notifying the settlement classes and for setting
18 a Fairness Hearing.
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20 4. Pursuant to Federal Rule of Civil Procedure 23, the Court certifies the following
21 settlement classes for purposes of this Motion only:
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23 a. All persons who, during the period from and including January 1, 2000
24 through May 31, 2011, purchased in the United States for their own use and
25 not for resale from an entity other than an MDL Defendant a Lithium Ion
26 Battery or Lithium Ion Battery Pack manufactured by an MDL Defendant or
27 alleged co-conspirator, or a Finished Product containing a Lithium Ion
Battery or Lithium Ion Battery Pack manufactured by an MDL Defendant or
alleged co-conspirator. Excluded from this Class are the MDL Defendants,

1 their parents, subsidiaries and affiliates, and any judge, justice, or judicial
2 officer presiding over this matter and the members of her or his immediate
3 families and judicial staff (Nationwide class under California law, Injunctive
4 relief under Federal and California law).

- 5 b. All non-federal and non-state governmental entities in California that,
6 during the period from January 1, 2000 through May 31, 2011, indirectly
7 purchased for their own use and not for resale either a Lithium Ion Battery
8 manufactured by a Defendant and/or a Lithium Ion Battery Product
9 containing a Lithium Ion Battery manufactured by a Defendant or co-
10 conspirator.
11

- 12 5. The Court further finds that the prerequisites to certifying settlement classes under
13 Rule 23(a) are satisfied for settlement purposes in that (a) there are at least
14 thousands of geographically dispersed settlement class members, making joinder of
15 all members impracticable; (b) there are questions of law and fact common to the
16 settlement classes; (c) the claims or defenses of the class representatives are typical
17 of the claims or defenses of the settlement classes; and (d) the Indirect Purchaser
18 Plaintiffs will fairly and adequately protect the interests of the settlement classes,
19 and have retained counsel experienced in antitrust class action litigation who have,
20 and will continue to, adequately represent the settlement classes. The Court also
21 finds that the prerequisites to certifying settlement classes under Rule 23(b) are
22 satisfied for settlement purposes in that (a) common questions predominate over
23 individual issues and (b) resolution through class settlements is superior to
24 individual settlements.
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- 1 6. The Court hereby appoints the Plaintiffs named in the Indirect Purchaser Plaintiffs'
2 Fourth Consolidated Amended Complaint (March 18, 2016) (ECF No. 1168)
3 ("FCAC") as Representative Plaintiffs of the settlement classes.
- 4 7. The Court hereby appoints the law firms of Cotchett, Pitre & McCarthy, LLP, Lieff,
5 Cabraser, Heimann & Bernstein, and Hagens, Berman, Sobol & Shapiro as
6 Settlement Class Counsel.
- 7 8. The Court approves the form of the Long-Form Notice attached hereto as Exhibit A
8 ("Long-Form Notice"). The Court also approves the form of the Short-Form Notice
9 attached hereto as Exhibit B ("Short-Form Notice"). The Court finds that taken
10 together, mailing the Long-Form Notice by electronic mail to addresses which can
11 be reasonably obtained, publication of the Short-Form Notice, and internet posting
12 of the Long-Form Notice are: (i) the best notice practicable; (ii) reasonably
13 calculated to, under the circumstances, apprise the settlement class members of the
14 proposed settlement and of their right to object or to exclude themselves as
15 provided in the settlement agreement; (iii) reasonable and constitute due, adequate,
16 and sufficient notice to all persons entitled to receive notice; and (iv) meet all
17 applicable requirements of due process and any other applicable requirements under
18 federal or state law.
- 19 9. IPPs' notice provider shall provide notice of the class settlement. The notice
20 provider shall provide direct notice of the settlement to all members of the
21 settlement class for whom they can reasonably obtain email addresses on or before
22 July 12, 2016. IPPs' notice provider shall publish the Short-Form Notice in
23 *Parade*, *Better Homes and Gardens*, and *People* with all publication completed on
24 or before August 18, 2016. The notice provider shall also cause a copy of the class
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1 notices and Settlement Agreement to be posted on the internet website
2 www.batteriesconsumerlitigation.com on or before May 27, 2016. IPPs' notice
3 provider shall use internet banner and text ads to achieve a minimum of 225 million
4 targeted impressions. All banners and text ads will include links to the website
5 www.batteriesconsumerlitigation.com, and may include publication via Facebook,
6 Yahoo! Network, Google Network, and YouTube. IPPs' notice provider shall also
7 cause a news release to be disseminated via PR Newswire US1 National
8 distribution to announce the Notice of Settlement, which shall include distribution
9 to at least 5,600 general market newsrooms, both print and broadcast, across the
10 United States plus 5,900 websites.

11
12 10. Each member of the settlement classes shall have the right to be excluded from the
13 settlement classes by mailing a request for exclusion to the claims administrator no
14 later than September 22, 2016. Requests for exclusion must be in writing and set
15 forth the name and address of the person or entity who wishes to be excluded, as
16 well as any trade name or business name and address used by such person or entity,
17 and must be signed by the class member seeking exclusion. No later than
18 September 29, 2016, IPP Class Counsel shall file with the Court a list of all persons
19 or entities who have timely requested exclusion from the settlement classes as
20 provided in the Settlement Agreement.

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22 11. Any member of the settlement classes who does not properly and timely request
23 exclusion from the settlement classes as provided above shall, upon final approval
24 of the settlement, be bound by the terms and provisions of the settlement so
25 approved, including, but not limited to, the releases, waivers, and covenants set
26 forth in the Settlement Agreement, whether or not such person or entity objected to
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1 the settlement agreement and whether or not such person or entity makes a claim
2 upon the settlement funds.

3 12. Each member of the settlement classes who has not timely excluded itself from the
4 settlement shall have the right to object to (1) the settlement and/or (2) the plan of
5 allocation by filing written objections with the Court no later than September 22,
6 2016. Failure to timely file written objections will preclude a class member from
7 objecting to any or all of the settlement.

8 13. Each member of the settlement classes as provided above shall have the right to
9 appear at the Fairness Hearing by filing a Notice of Intention to Appear no later
10 than September 22, 2016.

11 14. The Court will conduct a Fairness Hearing on November 8, 2016. The Fairness
12 Hearing will be conducted to determine the following:

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- 14 a. Whether the proposed settlement is fair, reasonable, and adequate and
15 should be granted final approval;
 - 16 b. Whether final judgment should be entered dismissing with prejudice the
17 claims of the settlement classes against Sony;
 - 18 c. Approval of the plan of allocation; and
 - 19 d. Such other matters as the Court may deem appropriate.
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21 15. Each member of the settlement classes shall retain all rights and causes of action
22 with respect to claims against the remaining defendants other than Sony regardless
23 of whether such member of the settlement classes decides to remain in the
24 settlement classes or to exclude itself from the settlement classes.

25 16. All briefs, memoranda, and papers in support of final approval of the settlement
26 shall be filed no later than October 4, 2016.

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1 17. IPPs' Class Counsel and their designees are authorized to expend funds from the
2 escrow accounts to pay taxes, tax expenses, notice, and administration costs as set
3 forth in the Settlement Agreement.

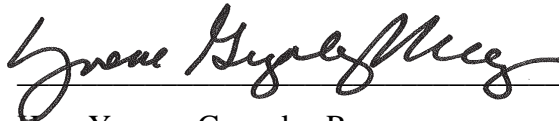
4 18. All further Indirect Purchaser class proceedings as to Sony are hereby stayed except
5 for any actions required to effectuate the settlement.

6 19. The Court retains exclusive jurisdiction over this action to consider all further
7 matters arising out of or connected with the settlement.

8 This order terminates Docket Number 1209.

9 IT IS SO ORDERED.
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11 Dated: May 26, 2016

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14 Hon. Yvonne Gonzalez Rogers
15 United States District Judge
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